

Senate File 2063 - Introduced

SENATE FILE 2063

BY DANIELSON

A BILL FOR

1 An Act creating the criminal offense of sexual exploitation by
2 an attorney, including civil actions for sexual abuse or
3 sexual exploitation by an attorney, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 614.1, subsection 12, Code 2016, is
2 amended to read as follows:

3 12. ~~Sexual abuse or sexual exploitation by a counselor,~~
4 ~~therapist, or school employee~~ certain occupations. An action
5 for damages for injury suffered as a result of sexual abuse, as
6 defined in section 709.1, by a counselor, therapist, or school
7 employee, as defined in section 709.15, or by an attorney
8 as defined in section 709.15A, or as a result of sexual
9 exploitation by a counselor, therapist, ~~or~~ school employee,
10 or attorney shall be brought within five years of the date
11 the victim was last treated by the counselor or therapist, ~~or~~
12 within five years of the date the victim was last enrolled in
13 or attended the school, or within five years of the date legal
14 services provided to the client, as defined in section 709.15A,
15 were terminated.

16 Sec. 2. Section 692A.102, subsection 1, paragraph b, Code
17 2016, is amended by adding the following new subparagraph:

18 NEW SUBPARAGRAPH. (012) Sexual exploitation by an attorney
19 in violation of section 709.15A, if the victim is thirteen
20 years of age or older.

21 Sec. 3. Section 692A.102, subsection 1, paragraph c, Code
22 2016, is amended by adding the following new subparagraph:

23 NEW SUBPARAGRAPH. (028) Sexual exploitation by an attorney
24 in violation of section 709.15A, if the victim is under
25 thirteen years of age.

26 Sec. 4. Section 702.11, subsection 2, Code 2016, is amended
27 by adding the following new paragraph:

28 NEW PARAGRAPH. *De.* Sexual exploitation by an attorney in
29 violation of section 709.15A.

30 Sec. 5. NEW SECTION. 709.15A Sexual exploitation by an
31 attorney.

32 1. As used in this section:

33 a. "Attorney" means a person licensed to practice law in
34 this state or another state.

35 b. "Client" means a person or a representative of the person

1 who is receiving legal services from an attorney.

2 2. a. Sexual exploitation by an attorney occurs when any of
3 the following are found:

4 (1) A pattern or practice or scheme of conduct to engage in
5 any of the conduct described in subparagraph (2).

6 (2) Any sexual conduct with a client for the purpose of
7 arousing or satisfying the sexual desires of the attorney or
8 client, while the client is obtaining legal services from the
9 attorney, which includes but is not limited to the following:

10 (a) Kissing.

11 (b) Touching of the clothed or unclothed inner thigh,
12 breast, groin, buttock, anus, pubes, or genitals.

13 (c) A sex act as defined in section 702.17.

14 b. Sexual exploitation by an attorney does not occur if the
15 client is the spouse of the attorney or the sexual relationship
16 between the attorney and client predates the providing of legal
17 services by the attorney.

18 3. An attorney who commits sexual exploitation in violation
19 of this section commits a class "D" felony.

20 Sec. 6. Section 709.19, subsection 1, Code 2016, is amended
21 to read as follows:

22 1. Upon the filing of an affidavit by a victim, or a parent
23 or guardian on behalf of a minor who is a victim, of a crime
24 that is a sexual offense in violation of [section 709.2, 709.3,](#)
25 [709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, 709.15A,](#)
26 [or 709.16,](#) that states that the presence of or contact with
27 the defendant whose release from jail or prison is imminent or
28 who has been released from jail or prison continues to pose a
29 threat to the safety of the victim, persons residing with the
30 victim, or members of the victim's immediate family, the court
31 shall enter a temporary no-contact order which shall require
32 the defendant to have no contact with the victim, persons
33 residing with the victim, or members of the victim's immediate
34 family.

35 Sec. 7. Section 802.2A, Code 2016, is amended to read as

1 follows:

2 802.2A Incest — sexual exploitation by a counselor,
3 therapist, or school employee certain occupations.

1. An information or indictment for incest under section 726.2 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other incest shall be found within ten years after its commission.

2. An indictment or information for sexual exploitation by
~~a counselor, therapist, or school employee~~ under section 709.15
or 709.15A committed on or with a person who is under the age of
eighteen shall be found within ten years after the person upon
whom the offense is committed attains eighteen years of age.
An information or indictment for any other sexual exploitation
under section 709.15 or 709.15A shall be found within ten
years of the date the victim was last treated by the counselor
or therapist, ~~or~~ within ten years of the date the victim was
enrolled in or attended the school, or within ten years of
the date legal services provided to the client, as defined in
section 709.15A, were terminated.

22	EXPLANATION
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23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill creates the criminal offense of sexual
26 exploitation by an attorney and includes provisions relating
27 to civil actions for sexual abuse or sexual exploitation by an
28 attorney.

29 The bill amends Code section 614.1 by allowing a civil action
30 for damages to be brought by a client for injuries suffered as
31 a result of sexual abuse or sexual exploitation of that client
32 or a representative of the client by an attorney. The bill
33 provides that the action must be brought within five years of
34 the termination of legal services provided to the client.

35 The bill defines “attorney” to mean a person licensed

1 to practice law in this state or another state and defines
2 "client" to mean a person or a representative of the person who
3 is receiving legal services from the attorney.

4 The bill creates the new criminal offense of sexual
5 exploitation by an attorney in new Code section 709.15A. Under
6 the bill, sexual exploitation by an attorney occurs when an
7 attorney engages in or participates in a pattern or practice or
8 scheme of conduct to engage in any sexual conduct with a client
9 for the purpose of arousing or satisfying the sexual desires
10 of the attorney or client, while the client is obtaining
11 legal services from the attorney, including but not limited
12 to kissing, touching of the clothed or unclothed inner thigh,
13 breast, groin, buttock, anus, pubes, or genitals, or a sex act
14 as defined in Code section 702.17.

15 Sexual exploitation by an attorney does not occur under the
16 bill if the client is the spouse of the attorney or the sexual
17 relationship between the attorney and client predates the
18 providing of legal services by the attorney.

19 Code section 803.1 governs the type of violations of the bill
20 that may be prosecuted in this state. Iowa court rule 32.1.8
21 governs attorney conflicts of interest with current clients and
22 may be the basis for attorney discipline.

23 An attorney who violates the bill commits a class "D"
24 felony. A class "D" felony is punishable by confinement for no
25 more than five years and a fine of at least \$750 but not more
26 than \$7,500. A person convicted of sexual exploitation by an
27 attorney is also subject to a 10-year special sentence under
28 Code section 903B.2.

29 An attorney who commits sexual exploitation by an attorney
30 must register as a sex offender. If the victim is under 13
31 years of age, the attorney shall be considered a tier III sex
32 offender, and if the victim is 13 years of age or older, the
33 attorney shall be considered a tier II offender. A tier III
34 offender must verify information to the county sheriff on a
35 more frequent basis than a tier II offender.

1 If the release of a defendant from incarceration is
2 imminent, the bill amends Code section 709.19 by requiring
3 the court to enter a temporary no-contact order requiring
4 the defendant to have no contact with a victim of sexual
5 exploitation by an attorney, if the victim files an affidavit
6 stating the defendant poses a threat to the safety of the
7 victim. Code section 709.19(2) governs the length of the
8 temporary no-contact order.

9 The bill amends Code section 802.2A by allowing an
10 information or indictment for sexual exploitation by an
11 attorney committed on or with a person under 18 years of age to
12 be found within 10 years after the person upon whom the offense
13 is committed attains 18 years of age. The amendment to Code
14 section 802.2A also provides that for other sexual exploitation
15 by attorney offenses, an information or indictment shall be
16 found within 10 years of the date legal services provided in
17 the matter were terminated.